

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

KELLY PRICE,

Plaintiff,

-against

THE CITY OF NEW YORK, et. Al.

Docket: 15-cv-05871-
KPF

**NOTICE OF
MOTION**

Defendants

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law; and upon all prior pleadings and proceedings had herein, Plaintiff Kelly Price will move this Court before the Honorable Katherine Polk Failla, United States District Judge, at the United States Courthouse for the Southern District of New York, located at 40 Foley Square, New York, New York 10007, at a date and time to be determined by the Court, pursuant to Rule 15 of the Federal Rules of Civil Procedure to Amend her complaint and reinstate claims against the District Attorney of New York County, ADA Kenya Wells, in his individual and official Capacity; ADA Susan Roque, in her individual and official Capacity; ADA Patricia Bailey in her individual and official Capacity; ADA Christina Maloney, in her individual and official Capacity; Chief of Staff Jeffrey Schlanger, in his individual and official Capacity in accordance with the Court's memorandum order of July 9, 2024 (Docket No. 224) and for such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that all responsive papers shall be filed and served in accordance with Judge Failla's part rules or at a time the Court orders them to be filed.

Dated: Forest Hills, New York
August 23, 2024

Respectfully Submitted,

/s David Broderick

DAVID J. BRODERICK

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TO: ALL APPEARING PARTIES via ECF

The Court has reviewed Plaintiff's Notice of Motion for leave to file a Sixth Amended Complaint (Dkt. #225), and the accompanying Memorandum of Law (Dkt. #226).

The Court recognizes the protracted procedural history of this case, which history includes many efforts at filing amended pleadings, and which also includes prior unsuccessful efforts by Plaintiff to bring claims against the New York County District Attorney's Office ("DANY") and its employees (collectively, the "DA Defendants").

(See, e.g., Dkt. #17, 25, 30, 65).

The Court is having difficulty reconciling Plaintiff's assertion in the Proposed Sixth Amended Complaint that Mr. Powell acted as a confidential informant for DANY, with the prior sworn representations made by the DA Defendants regarding Mr. Powell's role. (Compare Dkt. #226-2, with Dkt. #64-1). Among other events, the Court recalls the 2017 correspondence from the DA Defendants, which included the Declaration of Assistant District Attorney Christopher Ryan affirming that "Raheem Powell was not a cooperating witness for DANY." (Dkt. #64-1). The Court relied in part on that submission in denying leave to amend to bring claims against the DA Defendants. See *Price v. City of New York*, No. 15 Civ. 5871 (KPF), 2017 WL 1437202, at *4 (S.D.N.Y. Apr. 21, 2017).

Accordingly, and with due regard for the amount of time that has passed since the issue of including the DA Defendants was first raised, the Court requests a responsive submission from the DA Defendants regarding Ms. Price's motion for leave to amend, to be filed on or before **November 12, 2024**. Counsel for Ms. Price is directed to transmit this endorsement to counsel for the DA Defendants.

Ms. Price may submit a reply to the DA Defendants' submission within 21 days of the filing of that submission.

Date: September 10, 2024
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE